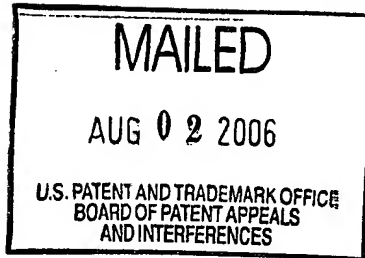


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES



Ex parte MATTHEW C. BURCH

Application 10/071,560

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on August 1, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the examiner. The matters requiring attention prior to docketing are identified below:

An examination of the Image File Wrapper (IFW) reveals that appellant filed an Appeal Brief on February 14, 2006. An in-depth review of the Appeal Brief indicates that the following sections are missing:

1) “Evidence Appendix,” as set forth in 37 CFR § 41.37(c)(1)(ix);
and

2) “Related Proceedings Appendix,” as set forth in 37 CFR
§ 41.37(c)(1)(x).

In addition, in response to the Appeal Brief filed February 14, 2006,
an Examiner’s Answer was mailed on May 5, 2006.

Section § 1207.02 of the Manual of Patent Examining Procedure
(MPEP) (8th Ed., Rev. 3, August 2005) states:

Requirements for Examiner’s Answer

The examiner’s answer is required to include, under
appropriate headings, in the order indicated, the
following items:

. . . .

(8) Evidence Relied Upon. A listing of the evidence
relied on (e.g., patents, publications, admitted prior art),
and, in the case of nonpatent references, the relevant page
or pages.

It is noted that while the Examiner’s Answer states that “[n]o evidence is
relied upon by the examiner in the rejection of the claims under appeal”
[page 3 under the caption “Evidence Relied Upon”], the claim rejection is
listed as follows:

1. Claims 1-45 are rejected under 35 U.S.C. 102(3) as being anticipated by Ran (U.S. patent 6,317,686) [page 3].

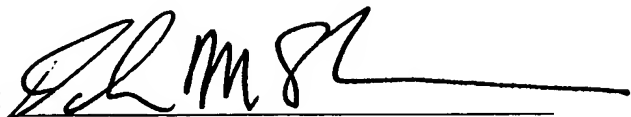
Correction is required.

Accordingly, it is

ORDERED that the application is returned to the Examiner:

- 1) for notification to appellant to provide a supplemental Appeal Brief which contains the missing "Evidence Appendix" and "Related Proceedings Appendix";
- 2) for consideration of the supplemental Appeal Brief;
- 3) for submission of a revised Examiner's Answer which corrects the "Evidence Relied Upon" section; and
- 4) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 
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Application 10/071,560

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